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A state may tax a corporation, either foreign or domestic, upon its intrastate business activities, since the state may refuse permission to carry on such business. *Allen* v. *Pullman's Palace Car Co.*, 191 U. S. 171; *Railroad Co.* v. *Maryland*, 21 Wall. (U. S.) 456; *Postal Telegraph-Cable Co.* v. *Richmond*, 249 U. S. 252. But if the corporation is engaged in interstate commerce, the state tax may conflict with the federal government's control over commerce. A state tax levied directly upon interstate commerce is clearly unconstitutional. *Western Union* v. *Kansas*, 216 U. S. 1; *International Paper Co.* v. *Mass.*, 246 U. S. 135. The only question is how far a state may burden interstate commerce indirectly. A state tax on total capital or total gross receipts as such has generally been condemned, unless some reasonable maximum is imposed. *Western Union* v. *Kansas*, *supra*; *Galveston, H. & S. A. Ry. Co.* v. *Texas*, 210 U. S. 217; *Looney* v. *Crane Co.*, 245 U. S. 178; *Baltic Mining Co.* v. *Mass.*, 231 U. S. 68. See 25 HARV. L. REV. 95. But it is said that a tax levied upon the net income of a corporation constitutes only an indirect burden. *United States Glue Co.* v. *Oak Creek*, 247 U. S. 321; *Baldwin Tool Works* v. *Blue*, 240 Fed. 202. *Cf. Peck & Co.* v. *Lowe*, 247 U. S. 165. On this ground the Supreme Court recently sustained a Wisconsin tax upon the net income of a domestic corporation, roughly apportioned to its earnings within the state. *United States Glue Co.* v. *Oak Creek*, *supra*. The reasoning of the court would apply equally well to a foreign corporation. See T. R. Powell, "Indirect Encroachment on Federal Authority," 32 HARV. L. REV. 634. Whether or not a state tax on net income with no attempt at apportionment would escape the commerce clause is very doubtful. See 1917 LAWS OF MISSOURI, 528; 1916 VA. CODE. ANN. ,Vol. IV, 552–554. And such a tax, if levied upon a foreign corporation, would probably violate the Fourteenth Amendment.

TAXATION — LICENSE TAX — CONSTITUTIONALITY OF MOTOR VEHICLE TAX GRADUATED ACCORDING TO CARRYING CAPACITY. — A statute provided for the collection of license fees on motor vehicles transporting freight and passengers for hire or hauling general freight over the public highway. The fee was graduated according to the number of passengers or the volume of freight carried (1919 ARK. STAT., Act 408). The plaintiff sought to enjoin the collection of such fees, alleging the tax to be unreasonable and oppressive, and therefore unconstitutional. *Held*, that the bill be dismissed. *Pine Bluff Transfer Co. et al.* v. *Nichol*, 215 S. W. 579 (Ark.).

Such a tax is a privilege, not a property tax. *Kane* v. *Titus*, 81 N. J. L. 594, 80 Atl. 453; *State* v. *Lawrence*, 108 Miss. 291, 66 So. 745. Accordingly, it cannot be attacked upon the ground of double taxation. *Jackson* v. *Neff*, 64 Fla. 326, 60 So. 350; *Harder's, etc. Co.* v. *Chicago*, 235 Ill. 58, 85 N. E. 245. And it may clearly be imposed in addition to an occupation tax. *St. Louis* v. *Weitzel*, 130 Mo. 60, 31 S. W. 1045; *Macon, etc. Co.* v. *Macon*, 96 Ga. 23, 23 S. E. 120. But see *Newport* v. *Fitzer*, 131 Ky. 544, 115 S. W. 742. A license fee is not a tax within the meaning of constitutional provisions requiring uniformity of rates. *Johnson* v. *Mayor, etc.*, 58 N. J. L. 604, 33 Atl. 850; *Re Kessler*, 26 Idaho, 764, 146 Pac. 113. See 1 COOLEY, TAXATION, 3 ed., 260. A classification of types, with graded rates for each, may therefore be established. *Re Kessler*, *supra*. If such classification proceeds upon a reasonable principle, the courts will sustain it. *Terre Haute* v. *Kersey*, 159 Ind. 300, 64 N. E. 469; *St. Louis* v. *Green*, 7 Mo. App. 468. Engine power has furnished a convenient and legitimate basis for the gradation. *Kane* v. *Titus*, *supra*. The scheme of classification used in the principal case is an even more scientific one, since it is calculated to impose the heaviest tax on the vehicles most destructive to the roads. The classification seems therefore to be clearly constitutional. *Cf. St. Louis* v. *Green*, *supra*.